

ANNUAL TOWN MEETING – SATURDAY, MAY 2, 2020

ELIZABETH HASTINGS MIDDLE SCHOOL

2020 PROPOSED FLOOD PLAIN BYLAW AMENDMENT

To see if the Town will enact the following amendments to the Zoning Bylaw Chapter 198 Section 28, Floodplain and Nasketucket River Basin Districts:

- 1) Add to 198-28.A panels: 25005C0391H, 25005C0392G, 25005C0394H, 25005C0411G, 25005C0413G dated July 8, 2020.
- 2) Delete from 198-28.A panels: 25005C0391F, 25005C0392F, 25005C0394F, 25005C0411F, 25005C0413F dated July 7, 2009.
- 3) In 198-28A revise the date of the Bristol County Flood Insurance Study (FIS) report date to July 8, 2020.
- 4) Add 198-28F.12 as follows: Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- 5) Add 198-28F.13 as follows: Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures. (c, d, e communities, if AH or AO appear).

The revised bylaw with these changes will read as follows with additions indicated in text that is **bold and underlined** and deletions indicated with strikethroughs (~~aaaa~~) as follows:

§ 198-28 Floodplain and Nasketucket River Basin Districts. [Added 4-3-1971 ATM by Art. 83; amended 3-30-1972 ATM by Art 79; 5-18-1976 ATM by Art. 73; 1-22-1977 STM by Art. 4; 5-13-1978 ATM by Art. 54; 10-7-1982 STM by Art. 14; 5-4-1985 ATM by Art. 19; 5-4-1985 ATM by Art. 27; 1-22-1988 STM by Art. 4; 5-7-1988 ATM by Art. 12; 5-3-1997 STM by Art. 15; 5-2-2009 ATM by Art. 12; 5-3-2014 STM by Art. 7]

A. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Fairhaven designated as Zone A, AE, AH, AO, A99, V, or VE on the Bristol County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The Map panels of the Bristol County FIRM that are wholly or partially within the Town of Fairhaven are panel numbers ~~25005C0391F, 25005C0392F, 25005C0393F, 25005C0394F, 25005C0411F, 25005C0413F, 25005C0425F, 25005C0482F, 25005C0501F, 25005C0502F, 25005C0503F, and 25005C0504F~~ dated July 07, 2009; and 25005C0391G, 25005C0393G, 25005C0394G and 25005C0482G dated July 16, 2014 **and 25005C0391H, 25005C0392G, 25005C0394H, 25005C0411G, 25005C0413G dated July 8, 2020.** The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report date ~~July 16, 2014~~ **July 8, 2020.** The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

B. The purposes of the Floodplain District are to:

- (1) Ensure public safety through reducing the threats to life and personal injury.
- (2) Eliminate new hazards to emergency response officials.
- (3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
- (4) Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.

- (5) Eliminate costs associated with the response and clean up of flooding conditions.
 - (6) Reduce damage to public and private property resulting from flooding waters.
- C. The Floodplain District is established as an overlay district to all other districts.
- (1) All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131 § 40 and with the following:
 - (a) Massachusetts State Building Code sections on floodplain and coastal high-hazard areas (currently 780 CMR).
 - (b) Wetlands protection regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
 - (c) Inland wetlands restriction, DEP (currently 310 CMR 13.00)
 - (d) Coastal wetlands restriction, DEP (currently 310 CMR 12.00)
 - (e) Minimum requirements for the subsurface disposal of sanitary sewage, DEP (currently 310 CMR 15, Title 5)
 - (f) Fairhaven Wetlands Bylaw (currently Chapter 192 of the Code of the Town of Fairhaven).
 - (2) Any variance from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- D. An Order of Conditions from the Conservation Commission is required before building permit shall be issued for construction or expansion by 500 square feet or more of a principal building on land less than the specified elevations above mean sea level (MSL) as provided in the Bristol County Flood Insurance Rate Maps as supplied for the Town of Fairhaven, MA, by the U.S. Corps of Engineers or on any barrier beach or sand dune within 300 feet horizontally of the mean high water line.
- E. Without limiting the generality of the forgoing, failure or inability to comply with the following shall be presumed hazardous to health and safety.
- F. For all new structures or for proposed improvements which equals or exceeds 50% of market value of the unimproved structure, or for any proposed improvements the cost of which together with the cost of improvements made in the previous five calendar years equals or exceeds 50% of the market value of the structure before such improvements, the lowest floor level, including that of the basement, if provided, and structural members supporting the lowest floor must be elevated not less than the specified elevations above mean sea level (MSL) as provided in the Flood Insurance Rate Maps as supplied for the Town of Fairhaven, Massachusetts effective July 7, 2009, ~~and~~ July 16, 2014 **and July 8, 2020.**
- (1) Structural requirements for construction in flood zones are as provided in the Massachusetts State Building Code, which code requirements are not waived nor superseded by the provisions of this Zoning Bylaw. In addition to those code requirements, the following requirements shall also apply within the designated flood zones for the Town of Fairhaven:
 - (a) Structures for all other uses other than dwelling units must also conform to Subsection C(1)(a).
 - (b) All new construction or substantial improvements for any use shall be located landward of the reach of mean high tide.
 - (2) Individual sewage disposal systems shall not be subject to inundation in the event of coastal flooding to six-foot elevation above mean sea level.
 - (3) Water supplies shall not be subject to more than temporary interruption or contamination, in the opinion of the Board of Health or its agents, in the event of coastal flooding to six-foot elevation above mean sea level.
 - (4) Unless protected by sea walls, pilings or other foundations shall extend not less than six feet below grade in sand and not less than four feet below grade in other materials or to such greater depth as the Building Commissioner may require to prevent scouring beneath foundations.
 - (5) Foundations shall be designed by a registered civil engineer or architect to withstand hydraulic pressure, and shall be of reinforced concrete, or if of masonry units, shall have a poured cap tied with reinforcing rods to the footings.
 - (6) No vegetation on the ocean side of the crest of any primary dune (a hill or ridge of sand piled up by the wind with no other dune between it and the ocean front) shall be destroyed, nor the crest height of such dune be lowered. All disturbed dune areas shall be stabilized with beach grasses or other means.

- (7) Man-made alteration of sand dunes within Zone VE which would increase potential flood damage are prohibited.
- (8) The placement of mobile homes for year round or seasonal use is prohibited in the Floodplain overlay district.
- (9) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (10) In a riverine situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:
 - (a) Adjacent Communities,
 - (b) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation
 - (c) NFIP Program Specialist, Federal Emergency Management Agency, Region I
- (11) All subdivision proposals must be designed to assure that:
 - (a) such proposals minimize flood damage;
 - (b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - (c) adequate drainage is provided to reduce exposure to flood hazards.
- (12) Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.**
- (13) Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures. (c, d, e communities, if AH or AO appear).**

G Nasketucket River Basin District (NRB)

- (1) The purpose of the Nasketucket River Basin District is to preserve, protect and maintain the quantity and especially the quality of the surface water and groundwater of this district which waters comprise and/or contribute to the existing and potential sources of water supply of the Town of Fairhaven and also to protect the public health, safety and general welfare of the Town residents and to conserve the natural resources of the town. The interpretations, orders, decisions, permits, judgments and findings of all parties, Town boards and departments, agents and officials in respect to all matters pertaining to this district, shall be consistent with and in accord with the spirit and intent of the above-stated purpose of this district. No facilities or activities hereafter listed in this section as restricted or prohibited shall be permitted within the Nasketucket River Basin District except by special permit from the Zoning Board of Appeals, upon demonstration by the applicant that the economic use of the property is infeasible under this rule and that water supply contamination will not result from the proposed facility or activity.
- (2) List of restricted facilities or activities:
 - (a) Fuel or combustible hydrocarbon storage.
 - [1] Underground storage prohibited.
 - [2] Aboveground storage over 55 gallons prohibited. (An exception to this restriction is the storage of heating oil inside the building to be heated)
 - (b) Commercial laundries and cleaners.
 - (c) Road salt storage and application.
 - (d) Commercial parking lots.
 - (e) Gasoline stations and commercial garages (e.g. for motor vehicle sales, repair or service).
 - (f) Pesticide applications, storage or use for commercial purposes.
 - (g) Fertilizer applications, storage or for commercial purposes.

- (h) Leaching fields, cesspools or surface or subsurface discharges of leachable wastes; (an exception to this restriction shall permit these facilities or activities within 300 feet westerly of New Boston Road, provided that all applicable wetlands, Board of Health and building permits have been previously obtained).
 - (i) Storage or stockpiling manure.
 - (j) Storage or disposal of hazardous materials or wastes as defined by EPA or OSHA regulations.
 - (k) Gravel pits or other excavations of sand, soil, rock or ledge for sale or commercial purposes (excepting normal excavations incidental to building construction, farming operations, water conservation, water retaining ponds, public utilities, installation and maintenance, and highway construction).
 - (l) Junk and salvage yards, dumps, disposal sites or landfills for solid or liquid wastes.
- (3) The preceding enumerated items [Subsection D(2)(a), fuel storage, subsection D(2)(d), commercial parking lots, Subsection D(2)(e), gasoline stations and commercial garages, Subsection D(2)(g), fertilizer applications, and Subsection D(2)(i) storage and stockpiling of manure] existing on the passage of this chapter may be continued, repaired, or maintained but without enlargement, nor addition to the existing facility, nor without changing the function of the existing structure to a function more hazardous or contaminating (in amount or type) to the basin aquifer or water supply.
- H. No person shall remove, fill, dredge or build upon any bank, marsh, swamp or flat bordering on coastal or inland water or any other land subject to tidal action or coastal flooding without a Special Permit from the Zoning Board of Appeals. Such a permit shall be issued upon confirmation that the requirements of the Wetland's Act (MGL c 131 §§ 40 & 40A) will be met and granting of the same will not be hazardous to health or safety and not harmful to the shellfish and aquatic resources of the town.³

³ Editor's note: Former Section 3.8.5, which immediately followed this subsection, as added 4-16-1975 ATM by Art. 60, was renumbered as Section 3.8.3.2 10-7-1982 STM by art. 14 and then deleted 5-4-1985 ATM by Art. 27.